

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

APRIL 12, 2001

IN RE:	)	
	)	
PETITION FOR APPROVAL OF THE	)	DOCKET NO.
INTERCONNECTION AGREEMENT	)	99-00797
NEGOTIATED BY BELL SOUTH	)	
TELECOMMUNICATIONS, INC. AND	)	
TIME WARNER TELECOM PURSUANT	)	
TO SECTIONS 251 AND 252 OF THE	)	
TELECOMMUNICATIONS ACT OF 1996	)	

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ORDER APPROVING INTERCONNECTION AGREEMENT

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This matter came before the Tennessee Regulatory Authority ("Authority") at a regularly scheduled Authority Conference on February 6, 2001 for approval of an Interconnection Agreement ("Agreement") negotiated between BellSouth Telecommunications, Inc. ("BellSouth") and Time Warner Telecom of Mid-South, L.P. ("Time Warner") pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 ("Act").

**Background:**

On October 15, 1999, BellSouth filed its *Petition of BellSouth Telecommunications, Inc. for Section 252(b) Arbitration* with the Authority. BellSouth requested that the Authority arbitrate one unresolved issue resulting from negotiations between the parties. This issue was whether a carrier should be compensated for the carriage of Information Service Provider ("ISP") bound traffic and, if so, what method should be used to calculate

the amount of compensation. Time Warner filed its response to the petition on November 9, 1999.

At a Pre-Arbitration Conference held on December 19, 1999, the parties agreed to the Arbitrators deciding the disputed issue after review of the parties' briefs. Both parties filed briefs on January 21, 2000. Thereafter, the Arbitrators deliberated the issue on March 14, 2000.

On August 4, 2000, the Arbitrators entered the *Final Order of Arbitration Award*. In the Order, the Arbitrators concluded "that compensation should be paid for the carriage of ISP-bound traffic and that, in the absence of a federal rule governing intercarrier compensation for ISP-bound traffic, reciprocal compensation is an appropriate mechanism to effect that recovery."<sup>1</sup> The Arbitrators also required that any "amendments to the agreement with regard to reciprocal compensation rates for ISP-bound traffic shall be submitted to the Authority for approval."<sup>2</sup>

On January 17, 2001, BellSouth and Time Warner filed a *Petition for Approval of the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and Time Warner Telecom Pursuant to the Telecommunications Act of 1996* together with the Agreement.<sup>3</sup> The Agreement provides for the interconnection of the parties and includes language requiring the payment of reciprocal compensation for the delivery of ISP-bound traffic. The following language is included in the Agreement:

- (1) **Local Traffic** is defined as any telephone call that originates and terminates in the same LATA and is billed by the originating party as a local call. The parties have been unable to agree upon whether,

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<sup>1</sup> *Final Order of Arbitration Award*, p. 4 (August 4, 2000).

<sup>2</sup> *Id.*

<sup>3</sup> On January 17, 2001, BellSouth inadvertently filed the Agreement under the wrong docket number. By letter dated January 18, 2001, BellSouth asked the Authority to file the Agreement under the correct docket number.

pursuant to the FCC's Declaratory Ruling in Docket CC 99-98, Enhanced Service Provider ("ESP") and Information Service Provider ("ISP") traffic should be considered Local Traffic for purposes of this Agreement. However, for the purposes of this Agreement, the parties shall, as an interim inter-carrier compensation mechanism, pay reciprocal compensation for dial-up calls to ISPs at the rate the parties have agreed upon for reciprocal compensation for local traffic, subject to true-up retroactive to the effective date of this Agreement until such time as the Commission has ruled pursuant to future FCC consideration on this matter.<sup>4</sup>

- (2) **ESP/ISP Traffic.** The parties shall, as an interim inter-carrier compensation mechanism, pay reciprocal compensation for dial-up calls to ISPs at the rate the Parties have agreed upon for reciprocal compensation for local traffic, until the FCC has ruled on this matter.<sup>5</sup>

The Agreement also contains language regarding a disaster recovery plan and provides for rates and charges for physical collocation.

**Findings and Conclusions:**

Based upon the record in this matter and the standards for review set forth in Sections 251 and 252, the Directors voted unanimously to approve the Agreement and made the following findings and conclusions:

- 1) The Agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within BellSouth Telecommunications, Inc.'s service area.
- 2) The Agreement is not discriminatory to telecommunications service providers that are not parties thereto.
- 3) No party has sought intervention in this docket.
- 4) Approval of the Agreement is consistent with the Authority's *Final Order of Arbitration Award entered* on August 4, 2000, and Sections 251 and 252 of the Act.

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<sup>4</sup> Interconnection Agreement, General Terms and Conditions, Part B, Page 21-22.

<sup>5</sup> Interconnection Agreement, Attachment 3, p. 14.

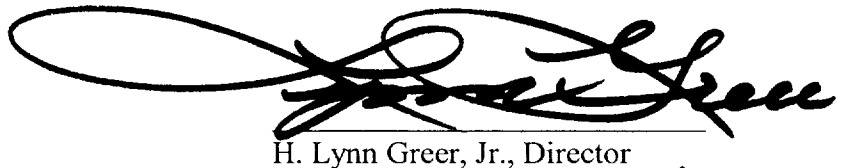
5) The approval of the Agreement is consistent with previous Authority decisions and orders; and

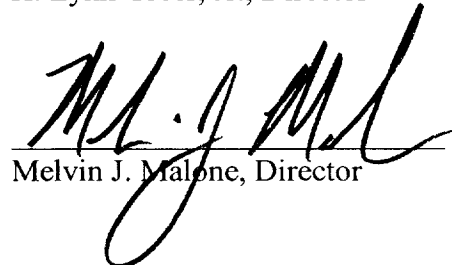
6) The Agreement is reviewable by the Authority pursuant to Sections 251 and 252 of the Act and Tenn. Code Ann. § 65-4-104.

**IT IS THEREFORE ORDERED THAT:**

The Interconnection Agreement between BellSouth Telecommunications, Inc. and Time Warner Telecom of Mid-South, L.P. is approved and is subject to the review of the Authority as provided herein.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary